



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION I**  
**5 POST OFFICE SQUARE, SUITE 100**  
**BOSTON, MASSACHUSETTS 02109-3912**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**URGENT LEGAL MATTER**  
**REQUIRES PROMPT RESPONSE**

**JUL 25 2016**

Lawrence Rowley  
Commissioner  
City of Brockton, Department of Public Works  
Brockton Advanced Water Reclamation Facility  
45 School Street  
Brockton, MA 02301

Daniel Gorka, Vice President, Operations  
Veolia Water North America – Northeast, LLC  
53 State St. 14<sup>th</sup> Floor  
Boston, MA 02109

Re: Clean Air Act Notice of Violation

Dear Mr. Rowley and Mr. Gorka:

The U.S. Environmental Protection Agency, Region 1 ("EPA") is issuing the enclosed Notice of Violation ("NOV") to the City of Brockton, Massachusetts ("Brockton") and to Veolia Water North America –Northeast, LLC ("Veolia") for violations of the Clean Air Act at the Brockton Advanced Water Reclamation Facility's sewage sludge incinerator.

The NOV addresses EPA's findings that Brockton and Veolia have violated and continue to violate Clean Air Act requirements for sewage sludge incinerators, found at 40 CFR Part 62, Subpart LLL. This NOV is intended to provide formal notice of the violations under Section 113 of the Clean Air Act.

We invite you to confer with EPA about the enclosed NOV and its findings, and to continue our discussions concerning the facility's path toward compliance. To schedule a conference, please contact Steve Calder, Environmental Engineer, at (617) 918-1744 or have your legal counsel contact Tom Olivier, Senior Enforcement Counsel, at (617) 918-1737 within fourteen (14) days of your receipt of this letter and the enclosed NOV.



Sincerely,

*Susan Studlien*

Susan Studlien, Director  
Office of Environmental Stewardship

Enclosure

By electronic cc:      Dan DiSalvio, MassDEP  
                             Tom Cushing, MassDEP  
                             Patrick Hill, City of Brockton  
                             David Norton, City of Brockton



**U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION I – NEW ENGLAND**

<b>IN THE MATTER OF:</b>	)	<b>NOTICE OF VIOLATION</b>
	)	
	)	
The City of Brockton, and	)	Proceeding under Section 113
Veolia Water North America – Northeast, LLC	)	of the Clean Air Act
	)	
Brockton Advanced Water Reclamation Facility	)	
303 Oak Hill Way	)	
Brockton, MA 02301	)	
	)	
	)	
	)	

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**STATUTORY AUTHORITY**

1. The United States Environmental Protection Agency (“EPA”) issues this Notice of Violation (“NOV”) to the City of Brockton and to Veolia Water North America – Northeast, LLC (“Brockton” and “Veolia”) pursuant to Sections 111(d) and 113 of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7411(d) and 7413.
2. Under the authority of Section 111(d) and Section 129(b)(3) of the CAA, 42 U.S.C. §§ 7411(d) and 7429(b)(3), EPA has established a federal plan for the control of emissions from existing sewage sludge incinerators (“SSIs”) in states that have not submitted an approvable state plan. The federal plan is found at 40 CFR Part 62, Subpart LLL (“Subpart LLL”). See 81 Fed. Reg. 26039, dated April 29, 2016.
3. The State of Massachusetts has not submitted an approvable state plan for the control of emissions from SSIs. The federal plan is effective May 31, 2016.



4. Section 113 provides that whenever EPA finds that any person has violated or is in violation of a requirement or prohibition of the Clean Air Act, EPA may issue an order to comply, may initiate an administrative penalty action in accordance with Section 113(d), or may bring a civil action in accordance with Section 113(b).

5. This NOV describes EPA's findings that Brockton and Veolia have violated and continue to violate requirements of Subpart LLL, and provides notice to Brockton and to Veolia of such findings.

### **LEGAL AND FACTUAL BACKGROUND**

6. Brockton owns, and Veolia operates, a multi-hearth SSI located at 303 Oak Hill Way in Brockton, Massachusetts that is subject to Subpart LLL (the "Facility").

7. The Facility was constructed before October 14, 2010.

8. The Facility accepts sewage sludge from the Brockton publicly-owned water treatment works.

9. The compliance date for the Facility under Subpart LLL was March 21, 2016.

10. Since January 2016, EPA and Brockton and Veolia have had several conference calls concerning the Facility's anticipated failure to comply with Subpart LLL by March 21, 2016.

11. Since January 2016, Brockton and Veolia have continued their discussions with EPA, and have submitted various draft plans under Subpart LLL for EPA review and/or approval.

12. Neither Brockton nor Veolia has submitted to EPA a notification under 40 CFR § 62.15915 indicating that the Facility would be closed permanently by March 21, 2016.

13. The Facility, in fact, has not been closed permanently, and is currently operating.



14. As required by 40 CFR § 62.15895, facilities must provide notice within 10 days of the compliance date of failure to comply with Subpart LLL and submit monthly reports to EPA.

15. Under Subpart LLL, owners and operators of subject SSIs must complete various actions by or before the compliance date of March 21, 2016, including but not limited to:

- a. submission of a final control plan and achieve final compliance (40 CFR § 62.15875);
- b. submission of a site-specific monitoring plan at least 60 days before March 21, 2016 (40 CFR § 62.15995);
- c. conducting an initial air pollution control device inspection (40 CFR § 62.15990);
- d. demonstrating compliance with the applicable emission limits specified in Table 2 or 3 (40 CFR §§ 62.15955 and 62.16000); and
- e. setting and meeting the applicable operating limits as provided in 40 CFR § 62.15960.

### **VIOLATIONS**

16. Brockton and Veolia have not completed various actions under Subpart LLL required to be performed by March 21, 2016, including those listed above in Paragraphs 14 and 15 of this Notice of Violation.

17. Accordingly, Brockton and Veolia have violated and continue to violate Subpart LLL.

### **ENFORCEMENT**

18. EPA may issue Brockton and Veolia a compliance order, issue an administrative penalty order, and/or commence a civil judicial action for penalties and injunctive relief, with respect to any of the violations of Subpart LLL. See Section 113 of the CAA, 42 U.S.C. § 7413.



19. Be advised that where EPA or another agency has notified a source of a violation, in certain circumstances the violation shall be presumed to continue for each and every day from the date of notice until the violator establishes that continuous compliance has been achieved. See Section 113(e)(2) of the CAA.

20. The issuance of this NOV does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law to address the violations described herein.

### **OPPORTUNITY TO CONFER**

21. Brockton and Veolia may confer with EPA concerning this NOV and the findings on which it is based. To schedule a face-to-face conference, please contact Steve Calder, Environmental Engineer, at (617) 918-1744, or have your attorney call Tom Olivier, Senior Enforcement Counsel, at (617) 918-1737, within fourteen (14) days from the date Brockton and Veolia receive this NOV.

### **SO ISSUED:**

Susan Studlien  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. EPA Region 1

07/22/2016  
Date